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March 17, 2023

**VIA ECF**

Honorable Taryn A. Merkl, U.S.M.J.  
United States District Court Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: Star Auto Sales of Bayside, Inc. et al v. Voynow, Bayard, Whyte, and  
Company, LLP et al  
Case No.: 1:18-cv-05775 (ERK) (CLP)  
MLLG File No.: 76-2018**

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Dear Judge Merkl:

Plaintiffs respectfully submit this letter to request leave to discuss the below discovery issues during the Court Conference scheduled on March 28, 2023 in the event that the Parties are unable to resolve these issues prior to the Conference. Plaintiffs' sent a letter to Defendants today outlining these issues and requested to have a meet and confer to discuss the following issues:

1) Plaintiffs previously requested Defendants to produce a legible version of VOYNOW\_003670 and have not received this yet.

2) Defendants' last production on March 10, 2023 started with bate-stamp VOYNOW\_028342 and prior production on December 14, 2022 ended with bate-stamp VOYNOW\_028340. Plaintiffs are requesting VOYNOW\_028341.

3) Pursuant to section IV(L) in the Discovery Stipulation and Agreement executed by the Parties, the Parties agreed to produce the metadata files identified in Attachment "A" of the Agreement to the extent it is reasonably available. The metadata fields including but not limited to: AUTHOR, LASTAUTHOR, DATECREATED, and DATELASTMODIFIED were not provided by Defendants for the following electronic documents Defendants' produced:

- a. VOYNOW\_028343-VOYNOW\_028346
- b. VOYNOW\_028317-VOYNOW\_028320
- c. VOYNOW\_028321-VOYNOW\_028324
- d. VOYNOW\_028325-VOYNOW\_028328
- e. VOYNOW\_028329-VOYNOW\_028332
- f. VOYNOW\_028333-VOYNOW\_028336

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g. VOYNOW\_028337-VOYNOW\_028340

4) Plaintiffs are seeking clarification on why the following documents were not produced prior to March 10, 2023 when Defendants previously indicated they produced all of their workpapers for Plaintiffs' from 2010-2017 already:

- a. Interim Report dated 8/29/2012 (VOYNOW\_028343-VOYNOW\_028346)
- b. Star Nissan workpapers for 2013 (VOYNOW\_028365-VOYNOW\_028388)
- c. Mitsubishi workpaper spreadsheet for 2010/2011 (VOYNOW\_028427)

5) Defendants' timesheets for most of 2016 and all of 2017 do not indicate the name of the Voynow employee who made the entry (only their staff number). Using time records from prior years, Plaintiffs are able to determine each employee's staff number except for the following staff numbers (which do not appear on older timesheets): 149, 150, 151, 152. Defendants must produce documents identifying which Voynow employees are associated with these staff numbers (including their current or last known contact information). As an example, some of these numbers appear on VOYNOW\_024821. Plaintiffs reserve the rights to depose these individuals once we get this information.

6) Defendants' five (5) 30(b)(6) depositions of various Plaintiffs were taken on February 1, 2023 through February 3, 2023 and Plaintiffs have not received a copy of these deposition transcripts to review. Plaintiffs have informed Defendants about this previously and asked for the name of the court reporting company that transcribed these depositions but have not received a response.

7) Plaintiffs are in receipt of Defendants' Second Amended Initial Disclosures dated March 15, 2023, which added twenty-one (21) new people as potential witnesses. Plaintiffs have concerns about Defendants identifying twenty-one (21) potential witnesses two (2) day before the close of discovery.

8) Plaintiffs never received Exhibit A from Defendants' subpoena requesting documents addressed to Subaru Distributors Corporation ("SDC") dated February 9, 2023. We understand that SDC responded to the subpoena but believe the requests and/or responses are overly broad. Plaintiffs reserve all rights to object to this subpoena once Plaintiffs receive a copy of Exhibit A and have a chance to review it. Plaintiffs are requesting a copy of Exhibit A.

Plaintiffs will inform the Court during the Conference on March 28, 2023 if any of these issues need to be discussed or not.

Respectfully submitted,

**MILMAN LABUDA LAW GROUP PLLC**

/s/ Joseph M. Labuda

cc: All counsel of record